

MM Dkt. 92-51

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AMERICAN SECURITY BANK

Federal Communications Commission
Office of the Secretary

GREGG E. JOHNSON
VICE PRESIDENT

~~DUPLICATE~~
~~FILE~~

(202) 624-4818

April 19, 1991

Ms. Donna Searcy
Secretary
Federal Communications Commission
1919 M St. N.W.
Washington, D.C. 20554

ORIGINAL
FILE

re: Petition for Declaratory Ruling that Lenders May Take a
Limited Security Interest in a FCC License; MMB File# 910221A

Dear Ms. Searcy:

American Security Bank has been an active lender to radio and television broadcasters throughout the United States for many years. We are one of many financial institutions with expertise in this specialized area of lending. According to Paul Kagan, publisher of Broadcast Lending Newsletter, the top 184 financial institutions today have a total of \$19.1 billion in commitments to the Broadcast industry, of which \$17.1 billion is in loans outstanding. The 184 institutions includes banks, insurance and finance companies.

Virtually all of ASB's loans to broadcasters are made on a secured basis. Our knowledge of the practices of other institutions leads us to conclude that the overwhelming percentage of the \$19.1 billion in financial commitments to broadcasters is on a secured basis.

The essential value of a broadcast property is the right to operate a station as permitted under a FCC license, that is, as a "going concern." This value is in contrast to the relatively minimal resale price of a station's hard assets. A major premise in most broadcast loans is the lender's ability to be secured by the full going concern value of the station. However, certain recent court rulings have created questions about the ultimate value of lender's collateral. Such an issue arose, for example, in In re Oklahoma City Broadcasting Co., d/b/a/ KGMC-TV, Debtor.

The result reached in the Oklahoma City case has had a chilling effect on the willingness of financial institutions to extend credit to the broadcast industry. This has exacerbated the problems already facing broadcasters today. The market for station sales has all but dried up for want of adequate financing options. Consequently, a growing number of distressed station owners, unable to find a financially qualified buyer, have contemplated the draconian step of filing for bankruptcy to ease their situation. Other operators, have had to cut back substantially on the services

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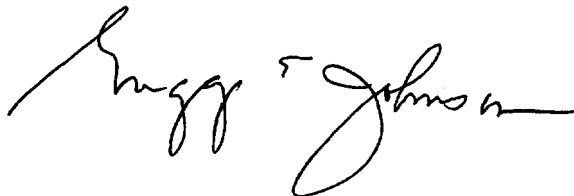
that they provide to their local community, including news and public affairs, because of their financial difficulties. Clearly neither result serves the public interest.

We urge the FCC to give favorable consideration to the Hogan & Hartson Petition. The FCC should confirm the right of lenders to take a security interest in FCC licenses. As the Hogan & Hartson Petition emphasizes, the lender's rights would remain subject to the normal transfer limitation, approval by the Commission. The recessionary economy our nation faces suggests that foreclosures against broadcast properties may increase in the coming months. Such a favorable ruling would clarify the uncertainty that has risen and provide for a uniform application by Courts. Moreover, if financial institutions can prudently increase lending to broadcasters on a secured basis, it will have a positive impact on an owner's ability to sell broadcast stations to financially sound operators.

On the other hand, if broadcast lenders conclude that it is difficult to enforce collateral rights against a station's going concern value, or that the collateral value may be limited only to the value of hard assets such as equipment, then loans to broadcasters will in most cases become unavailable. Such a lack of critical funding would effectively preclude the transfer of stations and hamper the ability of experienced broadcasters to provide the service which the public deserves.

Thank you for your favorable consideration in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ruggie & Johnson", with a horizontal line extending from the end of the signature.